



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/169041

PRELIMINARY RECITALS

Pursuant to a petition filed September 29, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on October 16, 2015, at Barron, Wisconsin.

The issue for determination is whether the petitioner continues to meet the functional eligibility requirements for the IRIS program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Bureau of Long-Term Support
1 West Wilson
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The petitioner is a 19-year-old man diagnosed with autism.
3. The petitioner has great difficulty changing his focus from what his mind is set on.

4. The petitioner graduated from high school when he was 18 year old and has a 102 IQ.
5. The petitioner works at [REDACTED]. He needs reminders to go to work but can perform the work once he is there.
6. The petitioner can make sandwiches. He does not use an oven because he forgets to turn it off. He can follow a multi-step recipe, but only if he is not interrupted.
7. The petitioner uses a medical planner with an alarm. Without it he would forget his medication.
8. The petitioner needs reminders to bathe and take care of himself. He cannot wash his own clothing.
9. The petitioner has no significant physical disabilities.
10. The petitioner can speak and understand speech without difficulty.
11. The petitioner cannot live on his own.

DISCUSSION

The Bureau of Long-Term Support seeks end the petitioner's enrollment in IRIS, an alternative to the Family Care and Partnership programs that allows persons to direct their own care. *IRIS Policy Manual*, § 1.1. IRIS, which stands for "Include, Respect I Self-Direct," was developed pursuant to a medical assistance waiver Wisconsin obtained under section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. Potential recipients must reside in a county with Family Care, meet one of the program's target groups, have a nursing home level of care, and meet the MA-Waiver financial and non-financial criteria. *Id.*, Ch. 2. The target groups include adults with a developmental or physical disability and the frail elderly. *Id.*, § 2.1. The petitioner is 19 years old and not physically disabled, so to qualify he must have a developmental disability, something the bureau contends he no longer has.

A person is developmentally disabled if he has a severe and chronic disability caused by a mental or physical impairment that manifested before age 22, is likely to continue indefinitely, and results in a substantial functional limitation in at least three of following major life activity areas:

- a. Self-care
- b. Receptive or expressive language
- c. Learning
- d. Mobility
- e. Self-direction
- f. Capacity for independent living.

The petitioner has no limitations in his mobility or language skills, but he cannot live alone. This means to remain eligible he must have a substantial functional limitation in two of the three remaining areas.

Evidence concerning his ability to learn is mixed. At school, he had regular classes with modified homework, a tutor, and one-on-one testing. He graduated on time and has a 102 IQ. This indicates that he has some limitations in learning, but they are not substantial.

Evidence concerning his self-direction is also mixed. He needs reminders to go to work at Kwik Trip but can perform the work once he is there. He will take his medication if an alarm is set. Although he is limited in this area, the fact that he completes his tasks well enough at work to make it through the day and not get fired indicates that this is not a substantial limitation.

Next to his ability to live on his own, his ability to care for himself is his greatest limitation. He can make sandwiches but cannot use the oven because he forgets to turn it off. He must be reminded to brush his teeth and bathe, although he does not require hands-on help with these tasks. He cannot operate a washing machine.

But even if one considers these limitations substantial, it means that he has substantial limitations in only two areas rather than the required three. Therefore, he does not have a developmental disability, and the bureau correctly seeks end his IRIS benefits because he does not meet any of the program's target groups.

CONCLUSIONS OF LAW

The petitioner is no longer functionally eligible for IRIS because he does not meet one of the program's target groups.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 4th day of November, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 4, 2015.

Bureau of Long-Term Support